

REMARKS

Applicant has carefully reviewed the Notice of Non-Compliant Amendment mailed June 15, 2006 and offers the following remarks to accompany the above amendments.

Status of the Claims

Claims 1-20 are pending. Claims 1-20 have been canceled. Claims 21-46 have been - added. Accordingly, upon entry of this amendment, claims 21-46 will be pending.

Replacement Figure 4

Please replace Figure 4 with the new replacement Figure 4 attached hereto. No new matter has been added as argued below in relation to the amendments to the specification.

Amendments to the Specification

The specification has been amended to include clarifications of the subject matter originally presented. No new matter has been added. “An objective standard for determining compliance with the written description requirement is, ‘does the description clearly allow persons of ordinary skill in the art to recognize that he or she invented what is claimed.’ ” (MPEP § 2163.02, quoting *In re Gosteli*, 872 F.2d 1008, 1012, 10 USPQ2d 1614, 1618 (Fed. Cir. 1989)).

Applicant respectfully submits that the original description as filed provides sufficient description to clearly allow persons of ordinary skill in the art to recognize that Applicant invented what is amended within the specification. Regarding the amendments expanding the range of frequency steps, the third sentence of the paragraph beginning on page 5, line 19, as originally filed with the application, indicates that “[s]teps are provided in .005 Hertz steps on either side of the center frequency to accommodate for age and personal comfort.” Figure 4 of the originally filed application shows frequency steps of 0.005 Hertz. The amendments expanding the range of frequency steps are in 0.005 Hertz steps. Accordingly, the amendments to the specification expanding the range of frequency steps are within the teaching of the original application as filed and simply accommodate for both younger and older people, as described in the original specification as filed. A person of ordinary skill in the art would clearly recognize

that the range within original Figure 4 and those given within the original specification could be expanded without departure from the scope of the original subject matter.

Regarding the amendment related to “body inclination,” the first step (Step 1) that begins on page 8, line 7 of the originally-filed specification provides instructions for the subject to “position themselves comfortably” Applicant respectfully submits that a person of ordinary skill in the art would clearly recognize a person could change their body inclination to position themselves comfortably.

Accordingly, Applicant respectfully submits that the original description as filed provides sufficient description to clearly allow persons of ordinary skill in the art to recognize that Applicant invented what is amended within the specification.

New Claims

Claims 21-46 have been added. No new subject matter is added by these amendments. Claims 21-25, 27-32, 34-38, 45 include subject matter that can be found within the present Application. (See Figure 3, and page 4, lines 4-16; page 5, line 15 to page 7, line 27; and page 8, lines 4-32). Claims 26, 33, 39, and 46 include no new subject matter and relate to subject matter amended by the amendments to the specification described above and respectfully submitted above to include no new subject matter.

Applicant respectfully submits that claims 21-46 are in condition for allowance and respectfully requests notice of the same at the earliest possible date.

Conclusion

The present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant’s representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By: 

Benjamin S. Withrow
Registration No. 40,876
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

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